



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS  
UNITED STATES PATENT AND TRADEMARK OFFICE  
WASHINGTON, D.C. 20231  
[www.uspto.gov](http://www.uspto.gov)

Paper No. 8

AUDLEY A. CIAMPORCERO JR.  
JOHNSON & JOHNSON  
ONE JOHNSON & JOHNSON PLAZA  
NEW BRUNSWICK NJ 08933-7003

**COPY MAILED**

JUN 18 2002

**OFFICE OF PETITIONS**

In re Application of  
Vyakarnam, et al.  
Application No. 09/938,364  
Filed: August 24, 2001  
Attorney Docket No. ETH1595  
FOR: FOAM COMPOSITE FOR THE REPAIR  
OR REGENERATION OF TISSUE

DECISION ON  
PETITION

This is a decision on the petition entitled, "Appeal of Dismissal of Petition Regarding Notice of Incomplete Non-provisional Application under 37 CFR 1.53(a)," filed May 20, 2002 (certificate of mailing date May 15, 2002), requesting that the above-identified application be accorded a filing date of August 24, 2001. The petition will be treated under 37 CFR 1.53(e).

The petition is granted.

The application was deposited on August 24, 2001. However, on September 14, 2001, the Office of Initial Patent Examination mailed a "Notice" requiring drawings of applicants' invention in compliance with 35 U.S.C. 113 and stating that the filing date would be the date of receipt of the omitted drawings. It is noted that the specification describes Figures 1,2,3,4,5,6,7A,7B,8,9A, 9B,9C,10,11,12, and 13. Applicants' first petition to accord an August 24, 2001 filing date to the above-identified application, filed January 2, 2002 (certificate of mailing date November 14, 2001), was dismissed on April 19, 2002.

In response to the April 19, 2002 dismissal, petitioners timely filed the present reconsideration petition. Petitioners request that the application be accorded an August 24, 2001 filing date on the basis that 15 sheets of drawing figures, including Figures 1,2,3,4,5,6,7A,7B,8,9A, 9B,9C,10,11,12, and 13, were received in the Patent and Trademark Office (PTO) on August 24, 2001. In support, the petition is accompanied by a copy of applicant's itemized postcard receipt showing an Office of Initial Patent Examination generated barcode citing August 24, 2001 as the date of receipt. The postcard lists, *inter alia*, that the filing included 15 sheets of drawings.

The return postcard constitutes *prima facie* evidence that 15 sheets of drawing figures, including Figures 1,2,3,4,5,6,7A,7B,8,9A, 9B,9C,10,11,12, and 13, were filed on August 24, 2001. MPEP 503. Accordingly, the request is granted.

The application is being returned to Office of Initial Patent Examination for further processing with a filing date of **August 24, 2001**, using the copies of Figures 1,2,3,4,5,6,7A,7B,8,9A, 9B,9C,10,11,12, and 13 submitted on January 2, 2002 (certificate of mailing date November 14,

2001). Office records will be corrected to show that 15 sheets of drawings were present on filing.

Any inquiries pertaining to this matter may be directed to Petitions Attorney E. Shirene Willis at (703) 308-6712.

  
Beverly M. Flanagan  
Supervisory Petitions Examiner  
Office of Petitions  
Office of the Deputy Commissioner  
for Patent Examination Policy

  
E. Shirene Willis  
Petitions Attorney  
Office of Petitions  
Office of the Deputy Commissioner  
for Patent Examination Policy